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Filing date: **05/12/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Bitsteam Inc.		
Entity	Corporation	Citizenship	Delaware
Address	245 Fist Street 17th Floor Cambridge, MA 02142 UNITED STATES		

Attorney information	Thomas M. Saunders Seyfarth Shaw LLP Two Seaport Lane Suite 300 Boston, MA 02210-2028 UNITED STATES bosippto@seyfarth.com Phone:617-946-4832
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Registration Subject to Cancellation

Registration No	2715836	Registration date	05/13/2003
Registrant	Bookman, Charles, Anthony 1085 Commonwealth Ave #273 Boston, MA 02215 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 1994/01/02 First Use In Commerce: 1994/01/02 All goods and services in the class are cancelled, namely: computer services, namely, address change notification services in the nature of posting notifications of changes of address for businesses via the Internet
Class 042. First Use: 1994/01/02 First Use In Commerce: 1994/01/02 All goods and services in the class are cancelled, namely: Computer code conversion for others; computer consultation; computer graphics services; computer network design for others; computer programming for others; computer project management services; computer services, namely, creating and maintaining websites for others, computer services, namely, data recovery services, computer services, namely, designing and implementing web pages and web sites for others, computer services, namely, providing search engines for obtaining data on a global computer network, computer services, namely, creating indexes of information, sites and other resources available on computer networks, computer services, namely, managing web sites for others, computer services, namely, redirecting electronic mail to changed personal electronic addresses, computer site design, computer software consultation, computer software design for others; computer software development, computer systems analysis

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	cancellation.pdf (5 pages)(711131 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/TMS/
Name	Thomas M. Saunders
Date	05/12/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No.
2,715,836 Issued May 13, 2003

BITSTREAM, INC.,

Petitioner,

v.

BOOKMAN, CHARLES ANTHONY,

Registrant.

Cancellation No.

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being electronically submitted with the United States Patent Office on the date shown below addressed to EFS-Web, Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on

By: 

May 12, 2008
Date

PETITION FOR CANCELLATION

Petitioner, Bitstream, Inc ("Petitioner"), a corporation organized under the laws of Delaware, having a place of business at 245 First Street, 17th Floor, Cambridge, Massachusetts 02142, believes that it is and will continue to be damaged by the above-identified registration, and pursuant to 15 U.S.C. § 1064 et seq. and 37 C.F.R. § 2.111 et seq., hereby petitions to cancel the same.

As grounds for cancellation it is alleged that:

1. Petitioner is engaged, generally, in the business of developing and selling computer software comprising machine-readable data bases containing information representing typefaces, recorded on magnetic tapes, disks, or other media; providing custom typographic design for others and consulting services in the use of typographic design, and; providing Internet services for the Internet including a mobile web browser for providing desktop browsing on the mobile Internet, displaying news, commerce and entertainment information and other wireless web pages; adapted to multiple operating systems.

2. Petitioner has invested a great deal of time and money in promoting Petitioner's business and the professional quality of its goods and services, and is continuing to spend substantial amounts of time and money in the promotion of same.

3. Since at least as early as May 20, 2002 Petitioner has used the trademark THUNDERHAWK in providing computer software, namely, software with data compression and caching functionality to enable enhanced Internet browsing via mobile telephones, personal digital assistants, and wireless devices, and further in providing a mobile Internet browser with data compression and caching functionality to enable enhanced Internet browsing via mobile telephones, personal digital assistants and wireless devices.

4. On May 12, 2008, Petitioner filed a trademark application on the Principal Register for THUNDERHAWK in International Class 009: Computer software, namely, software with data compression and caching functionality to enable enhanced Internet browsing via mobile telephones, personal digital assistants, and wireless devices; and International Class 042: Providing a mobile Internet browser with data compression and caching functionality to enable enhanced Internet browsing via mobile telephones, personal digital assistants and wireless devices. This application was assigned Serial No. 77/472,223. As discussed below, Petitioner anticipates that this application will be refused by the Patent and Trademark Office ("PTO") on the basis that there is a likelihood of confusion between Petitioner's mark and Registrant's registration for THUNDERHAWK, Reg. No. 2,715,836.

5. On June 5, 2002, Registrant filed application Serial No. 78/133,290 for registration on the Principal Register for the mark THUNDERHAWK that ultimately issued in IC035 for computer services, namely, address change notification services in the nature of posting

notifications of changes of address for businesses via the Internet, and in IC 042 for Computer code conversion for others; computer consultation; computer graphics services; computer network design for others; computer programming for others; computer project management services; computer services, namely, creating and maintaining websites for others, computer services, namely, data recovery services, computer services, namely, designing and implementing web pages and web sites for others, computer services, namely, providing search engines for obtaining data on a global computer network, computer services, namely, creating indexes of information, sites and other resources available on computer networks, computer services, namely, managing web sites for others, computer services, namely, redirecting electronic mail to changed personal electronic addresses, computer site design, computer software consultation, computer software design for others; computer software development, computer systems analysis. This application matured into Reg. No. 2,715,836 on May 13, 2003, and is the subject of this petition.

6. On information and belief, Registrant is an individual residing in Commonwealth of Massachusetts with a mailing address at 1085 Commonwealth Ave. #273, Boston, Massachusetts 02215.

7. On June 5, 2002, Registrant submitted a sworn declaration to the PTO in which it stated that "Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods and services." These identified goods and services were: Computer code conversion for others; Computer consultation; Computer graphics services; Computer network design for others; Computer programming for others; Computer project management services; Computer services, namely, address change notification services in the nature of posting notifications of changes of addresses for business via the Internet; Computer services, namely creating and maintaining web sites for others; Computer services, namely, data recovery services; Computer services, namely, designing and implementing network web pages for others; Computer services, namely, designing and implementing web sites for others; Computer services, namely providing search engines for obtaining data on a global computer network; Computer services, namely creating indexes of information, sites and other resources available on computer networks; Computer services, namely, managing web sites for others; Computer services, namely, redirecting electronic site

design; Computer software consultation; Computer software design for others; Computer software development; Computer systems analysis.

8. On information and belief, Registrant is not using, and has never used or has abandoned the mark THUNDERHAWK in connection some or all of the goods and services listed on the application as filed, or the registration as issued.

9. Therefore, on information and belief, when Registrant filed its application indicating use of the mark in connection with all of the services listed in the application, such statement in such application was false.

10. Upon information and belief, Registrant misrepresented the nature of its use in commerce of the alleged mark at the time it filed its application and continued to prosecute the trademark application that led to the registration that is the subject of this petition. On information and belief, Registrant procured the aforesaid registration by false means and/or by knowingly and willfully making false and/or fraudulent declarations or representations to the PTO, including, *inter alia*, falsely stating in his application that Registrant was using the mark in connection with all of the services set forth in the application, when, on information and belief, Registrant did not then and still does not use the mark as declared. Upon information and belief, said false statements were made with the intent to induce authorized agents of the PTO to grant said registration, and reasonably relying upon the truth of said false statements, the PTO did, in fact, grant said registration to Registrant.

11. Upon information and belief, Registrant knew at the time it was made that the statement made in the application that ultimately matured into Reg. No. 2,715,836 was false.

12. Upon information and belief, the Registrant's mark has been abandoned and lost all capacity to act as an indicator of source for one or more of the goods and services recited in Reg. No. 2,715,836.

13. Petitioner is likely to be damaged by continued registration of said mark because the PTO Examining Attorney will likely refuse Petitioner's application bearing Serial No. 77/472,223 (identified above) on the grounds that, under 37 CFR § 2(d) of the Lanham Act, there is a likelihood of confusion between the Petitioner's mark THUNDERHAWK and Registrant's mark THUNDERHAWK.

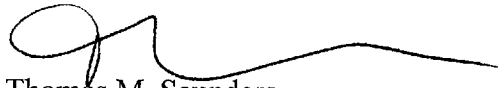
14. In view of the above allegations, Registrant is not entitled to continued registration of his alleged mark since Registrant, upon information and belief, committed fraud in the procurement of the subject registration.

15. Any required fees should be charged to Seyfarth Shaw LLP's deposit account No. 50-2896.

WHEREFORE, the Petitioner respectfully prays that Registration No. 2,715,836 be canceled.

Date: May 12, 2008

Respectfully submitted,



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